Application No. 10/092,033
Filed: March 5, 2002
TC Art Unit: 3739
Confirmation No.: 7761

REMARKS

Claims 1 and 5 have been amended to obviate the objections thereto. With respect to the rejection of claim 7, Applicant's note the description of simultaneous illumination at page 5, lines 20-21. The "color wheel" embodiment requires sequential operation, the presently claimed invention does not.

The Applicant respectfully traverses the rejections of claims 1-11 and 21-26 under 35 U.S.C. 112, first paragraph.

Applicant describes several embodiments in the specification in which different sources of light can be used to induce tissue autofluorescence. The first embodiment is described in the summary of the invention in connection with Wang Application (60/072,455) at page 5, lines 4-9, again at page 8, lines 2-5, and again at page 10, lines 13-14. Wang et al used an argon-ion laser at 365 nm, a ND:Yag laser at 355 nm, a krypton ion laser at 407 nm and 413 nm, as well as a mercury arc lamp for UV excitation. The Applicant notes that Wang described the use of an ultraviolet source to induce fluorescence for diagnostic purposes. The Applicant also notes that the parent application of the present application issued as U.S. Patent No. 6,364,829 with claims directed to the ultraviolet light source shown in Fig. 10A, for example. However, the present application involves claims directed to a third embodiment described at page 10, lines 15-16.

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Applicant has made no admission that a diode laser light source was known in the art as an ultraviolet light source for inducing tissue autofluorescence. Wang et al does not describe the use of a diode laser for UV excitation. To conclude, as set forth in the Office Action dated November 22, 2004, that the reference to a diode laser at page 10, lines 13-16, that this is "mentioned as one of two other light sources that have previously been used" is simply erroneous. There is no basis for concluding this - rather this section makes reference to the system described in Wang as one source, and to another new system, that using the diode laser as a source.

Thus one skilled in the art would readily understand from the specification that a diode laser, such as a gallium nitride laser was to be used as an ultraviolet light source. The statement in the Office Action of August 8, 2005, that a "light source structure which uses a diode laser, in combination with the necessary structure produce the same results as the embodiment that uses the mercury arc lamps has not been mentioned, described or shown." Applicant has not even attempted to "produce the same results" as a mercury arc lamp. These are different embodiments with different objectives. Wang (09/238,664, now U.S. Patent No. 6,537,211) which was incorporated in the present application by reference, discloses, describes and depicts the use of both a UV

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laser source and a mercury arc lamp UV source. The entire application, when viewed as a whole, clearly describes and depicts the claimed subject matter.

Claims 1-6, 8-11, 21, 23 and 24 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Kaneko in view of Poindexter.

Poindexter ('423) is relied upon to show the use of diode laser. However the '423 patent relates to a sensor for measuring oxygen content levels in the exhaust gases of internal combustion engines. There is no teaching or suggestion in this reference that such a source could be used to induce tissue autofluorence in the claimed range suitable for diagnostic purposes. One skilled in the art would not look to the '423 patent for such teaching.

Applicant respectfully requests reconsideration hereof.

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The Examiner is encouraged to telephone the undersigned attorney to discuss any matter that would expedite allowance of the present application.

Respectfully submitted,

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